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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,582	03/01/2004	Lydia Bach	658-P-001	9863

7277 7590 03/26/2007
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NEW YORK, NY 10118

EXAMINER

MATHEW, FENN C

ART UNIT	PAPER NUMBER
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3764

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/790,582

Applicant(s)

BACH, LYDIA

Examiner

Fenn C. Mathew

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to for the reasons set out in paragraph 2 of the office action dated September 1, 2006. Please refer to the cited office action for a discussion of deficiencies and the manner in which corrections may be made.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ferrari (U.S. 4,927,138). Referring to claim 1, Ferrari discloses a portable and foldable exercise apparatus comprising, at least one horizontal member (10) (note in fig. 4a and 4b the horizontal member) for supporting at least portion of the force generated by a user during exercise (Ferrari does not specifically disclose the horizontal member being removable, however, it is slidably attached to tube (7) by pin (11), and thus appears to be removable), a vertical frame capable of supporting at least portion of the force generated by a user during exercise comprising a free standing generally rectangular shaped vertical rear support wall (2), at least one pair of generally rectangular shaped vertical side support (7) frames pivotally attached to the rear support wall to be in an open U-shaped position for use or a closed compact folded position for storage, and at least one user support base (1) having opposing sides and opposing ends and capable of supporting at least a

Art Unit: 3764

portion of the force generated by a user during exercise, each user gripping bar being removably attached to each of the pairs of vertical side support frames and the opposing sides of the user base being removably attached to each of the pairs of vertical side support frames and one end of each user base abutting the vertical rear support wall. Note in figures 4a and 4b, the gripping bar is substantially parallel to the planes of both the rear support wall and the user support base. As stated above, each user gripping bar appears to be removable based on the removable pins. To the extent that the gripping bar is not removable, such a feature would have been obvious to one of ordinary skill in the art at the time of invention in order to increase portability.

Referring to claim 2, Ferrari discloses the apparatus further comprising a pair of stabilizing legs (5). Referring to claim 3, Ferrari discloses the apparatus comprising first and second pairs of vertical side support frames and the rear support frame having a first and second side, the first pair of vertical side support frames pivotally attached to the first side of the rear support frame, and the second pair of vertical side support frames pivotally attached to the second side of the rear support frame. Referring to claim 4, Ferrari discloses each gripping bar being vertically adjustable at a plurality of discrete vertical positions. Referring to claim 5, Ferrari discloses a support base extension (7) removably attached to the opposing end of the user base (ref. numeral 7 constitutes both the vertical frame member, as well as a support base extension).

Response to Arguments

4. Applicant's arguments filed 12/11/2006 have been fully considered but they are not persuasive. Examiner respectfully points out that claims were rejected under 35 U.S.C. 102(b) or in the alternative 35 U.S.C. 103(a). As cited above, it appears that the gripping member is removable based on the telescoping nature, and the need for a pin to keep the grip in place. To the extent that the gripping member is not removable, such a modification would be obvious to one of ordinary skill. As mentioned above, Ferrari does indeed teach the gripping member parallel to the plane of the rear support wall and the base as seen in figures 4a and 4b. To that end, Examiner respectfully maintains the rejections under Ferrari.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3764

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Fenn C. Mathew
March 19, 2007